

EXHIBIT B

EXHIBIT B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE OPTICAL DISK DRIVE PRODUCTS
ANTITRUST LITIGATION**

MDL No. 2143

This document relates to:

INDIRECT PURCHASER CLASS ACTION

Case No. 3:10-md-02143-RS (JCS)

**DECLARATION OF DUNCON WU IN
SUPPORT OF BENQ DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

In accordance with 28 U.S.C. § 1746, I, Duncon Wu, declare as follows:

1. My name is Duncon Wu. I am currently employed as Director, Sales & Marketing Division of Partner Tech Corporation, a subsidiary of Qisda Corporation (formerly known as BenQ Corporation) in Taiwan. During 2003-2004, I was employed by a subsidiary of the company then known as BenQ Corporation ("BenQ"), BenQ Asia Pacific Corp., as Sales Manager for BenQ-brand optical disc drives ("ODDs") in the Taiwan domestic market. In 2005, I was assigned to work for BenQ's U.S. distribution subsidiary, BenQ America Corp. ("BQA"), in Irvine, California, as ODD Product Manager in charge of its U.S. ODD sales. I remained in that position through mid 2006, when BenQ's ODD business line was sold and BenQ exited the ODD manufacturing business. At that time, I became Product Manager for a different business line, and continued to hold various other positions with BenQ (now Qisda) through the present day. I was deposed in this litigation on September 13, 2016. I make this declaration based upon my personal knowledge, and if called to testify to its contents, could and would do so competently.

2. During the period from 2003 through mid 2006, BenQ was engaged in the manufacture and sale of ODDs. I have personal knowledge of BenQ's ODD business operations during that time because I was employed within the company's storage (ODD) business line in a management capacity throughout that time period.

1 3. During the period from 2003 through mid 2006, BenQ manufactured ODDs at
2 facilities in Malaysia, China, Taiwan, and Mexico. BenQ no longer engaged in ODD
3 manufacturing after mid 2006.

4 4. BQA was never engaged in the manufacture of ODDs, it acted solely as a regional
5 office for sales and distribution of BenQ-manufactured ODDs (internal drives) and ODD products
6 (external drives), as well as other non-ODD products.

7 5. As a result of BenQ's decision to exit the ODD manufacturing business in mid 2006,
8 BQA, as BenQ's U.S. distribution subsidiary, accordingly ceased distribution in the U.S. at or
9 around the same time.

10 6. BQA possessed some BenQ-manufactured ODDs in inventory, some of which
11 would have been at or nearing end of life, and residual orders likely were pending around the time
12 of BenQ's exit from the ODD manufacturing business. BQA and/or its former wholly-owned
13 subsidiary BenQ USA Corp. sold some of this residual inventory and/or fulfilled remaining orders
14 or warranty liability in sales to external customers in the U.S. in sporadic transactions after the
15 closing of the storage business line, typically at heavily discounted prices that would have resulted
16 in no profit (indeed, that would have constituted a loss) to BQA. I confirmed this fact by reviewing
17 BQA's transactional data for the 2003-2012 period, which I understand was produced in this action
18 at ODD-BENQ-00000326.

19 7. As I testified during my deposition in this case, I was responsible for BQA's ODD
20 pricing to channel customers, including distributors, during the 2005-2006 period, through
21 approximately June 2006 when the storage business line was closed and I transferred to another
22 product line. And as I further testified, during the 2005-2006 period, BQA's ODD customers very
23 often negotiated on price for their purchases from BQA and, in so doing, would sometimes share
24 other competing ODD suppliers' pricing with BQA in an effort to get better pricing from BQA. It
25 was very common for distributor customers to tell me that a BQA competitor had offered them a
26 lower price and what that price was, and to then request a lower price from me.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed this 20th day of June, 2017 at Taipei, Taiwan.

3
4 

5 DUNCON WU
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

D.W.